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## NOTICE OF ALLOWANCE AND FEE(S) DUE

26291 7590 07/13/2004  
MOSER, PATTERSON & SHERIDAN L.L.P.  
595 SHREWSBURY AVE, STE 100  
FIRST FLOOR  
SHREWSBURY, NJ 07702

EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 07/13/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,796	12/09/1999	DONALD F. GORDON	19880-000720	9295

TITLE OF INVENTION: APPARATUS AND METHOD FOR COMBINING REALTIME AND NON-REALTIME ENCODED CONTENT-

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$0	\$665	10/13/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(703) 746-4000**

or **Fax**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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**MOSER, PATTERSON & SHERIDAN L.L.P.  
595 SHREWSBURY AVE, STE 100  
FIRST FLOOR  
SHREWSBURY, NJ 07702**

**Certificate of Mailing or Transmission**  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,796	12/09/1999	DONALD F. GORDON	19880-000720	9295

**TITLE OF INVENTION:** APPARATUS AND METHOD FOR COMBINING REALTIME AND NON-REALTIME ENCODED CONTENT-

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nonprovisional	YES	\$665	\$0	\$665	10/13/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
HUYNH, SON P	2611	725-091000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).  
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list  
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
3 \_\_\_\_\_

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ government

**4a. The following fee(s) are enclosed:**

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

**4b. Payment of Fee(s):**

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

**5. Change In Entity Status (from status indicated above)**

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is not claiming SMALL ENTITY status. See, e.g., 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

(Authorized Signature)

(Date)

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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TRANSMIT THIS FORM WITH FEE(S)



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26291	7590	07/13/2004	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 07/13/2004

## Determination of Patent Term Extension under 35 U.S.C. 154 (b) (application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.

09/458,796

Examiner

Son P Huynh

Applicant(s)

GORDON ET AL.

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to pape No. 23 filed on 5/10/2004.
2. ☒ The allowed claim(s) is/are 1-11, 13-18, 21-22 have been renumbered as 1-19 respectively. *AM 7/26/04*
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 24.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**

#24/g  
W. J. Jensen  
7/19/04

## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorneys Steven M. Hertzberg (Reg. 41,834) and Eamon J. Wall (Reg. 39,414) on June 30, 2004 and July 2, 2004.

2. The application has been amended as follows:

In the claims:

1. (Currently amended) An apparatus for encoding realtime and non-realtime interactive program guide (IPG) content comprising a realtime video [content] portion and a non-realtime guide graphics portion [data], the apparatus comprising:

a non-realtime encoder configured to encode the non-realtime guide graphics portion [content] into a plurality of encoded non-realtime graphics [content] slices;

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a realtime encoder configured to encode the realtime [content] video portion into encoded realtime [content] video slices;

means for assigning packet identifiers to the realtime video portion slices and the non-realtime guide graphics portion slices, wherein said assigning step assigns a different packet identifier to each guide graphics slice that is part of a different guide graphic, and assigns a common packet identifier to all common realtime video portion slices;

a remultiplexer configured to repacketize the encoded non-realtime [content] guide graphics portion slices and the encoded realtime video portion [content] slices into transport packets;

a slice combiner coupled to the realtime and non-realtime encoders and the remultiplexer, the slice combiner configured to combine slices of the encoded realtime video [content] portion with slices of the encoded non-realtime [video data content] guide graphics portion in a predetermined order; and

a re-timestamp unit coupled to the remultiplexer and configured to provide timestamps to be applied to the transport packets in order to synchronize the realtime video portion and non-realtime [content] guide graphics portion of said IPG.

2. (Previously presented) The apparatus of claim 1, where the apparatus is located within a head-end of a cable distribution system.

3. (Currently Amended) The apparatus of claim 1, further comprising:

g.  
cont.

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a clock unit configured to provide a clock signal to the re-timestamp unit and to generate a clock stream to be transmitted along with [the] a transport stream to a plurality of terminals.

4. (Currently Amended) The apparatus of claim 1, further comprising:

a rate control unit configured to determine an encoding rate for the non-realtime [content] guide graphics portion and to provide the determined encoding rate for the non-realtime [content] guide graphics portion to the non-realtime encoder.

5. (Currently Amended) The apparatus of claim 4, where encoding rate for the non-realtime [content] guide graphics portion is determined based at least in part on an output rate of [the] a transport stream.

6. (Currently Amended) The apparatus of claim 4, where the rate control unit determines an encoding rate for the realtime [content] video portion based at least in part on an output rate of [the] a transport stream.

7. (Currently Amended) The apparatus of claim 1, wherein the realtime [content] video portion includes video and audio contents.

8. (Currently Amended) The apparatus of claim 1, wherein the non-realtime [content] guide graphics portion includes guide data.

Q1  
cont.

9. (Previously Amended) The apparatus of claim 7, wherein the realtime encoder includes

a video encoder configured to encode the realtime video content, and  
an audio encoder configured to encode the realtime audio content.

10. (Currently Amended) The apparatus of claim 5, wherein the encoding rate for the non-realtime [content] guide graphics portion is further determined based on a maximum bit rate anticipated for the encoded realtime video [content] portion.

11. (Previously presented) The apparatus of claim 1, wherein the timestamps provided by the re-timestamps unit replace timestamps generated by the realtime and non-realtime encoders.

12. Canceled.

13. (Previously presented) The apparatus of claim 1, wherein realtime and non-realtime contents intended to be displayed in a single frame are re-timestamped by the re-timestamp unit for synchronization such that the contents are decoded and presented in the same frame.



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14. (Currently Amended) [A method for encoding realtime and non-realtime content of an interactive program guide (IPG), comprising:

encoding realtime content to generate encoded realtime content slices;

encoding non-realtime content to generate encoded non-realtime content slices;

combining slices of encoded realtime with slices of encoded non-realtime content, wherein the encoded realtime content and non-realtime content are combined in a predetermined order;

repacketizing the combined encoded realtime content slices and the encoded non-realtime content slices into transport packets, wherein the repacketizing is based on the combined slices of encoded realtime and non-realtime contents; and

re-timestamping the transport packets with new timestamps in order to synchronize the realtime and non-realtime content of the IPG].

*g1 cont.*

**Apparatus for an interactive program guide (IPG) having a realtime video portion and a non-realtime guide graphics portion, comprising:**

**\_\_\_\_\_ means for encoding the realtime video portion by dividing the video portion into slices and encoding each video portion slice;**

**\_\_\_\_\_ means for encoding the non-realtime guide graphics portion to produce a plurality of encoded non-realtime graphics slices by dividing the non-realtime guide graphics portion into slices and encoding each guide graphic portion slice;**

**\_\_\_\_\_ means for assigning packet identifiers to the realtime video portion slices and the non-realtime guide graphics portion slices, wherein said assigning step**

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assigns a different packet identifier to each guide graphics slice that is part of a different guide graphic, and assigns a common packet identifier to all common realtime video portion slices;

means for combining encoded realtime video portion slices with encoded non-realtime guide graphics portion slices, wherein the encoded realtime video portion slices and non-realtime guide graphics portion slices are combined in a predetermined order;

means for repacketizing the combined encoded realtime video portion slices and the encoded non-realtime guide graphics portion slices into transport packets;

means for re-timestamping the transport packets with new timestamps in order to synchronize the realtime video portion and non-realtime guide graphics portion of the IPG; and

means for placing the encoded realtime video portion slices and non-realtime guide graphics portion slices into a bitstream for transmission.

15. (Currently Amended) The method of claim [14] 22, further comprising:

generating the new timestamps based on a common clock signal.

16. (Currently Amended) The method of claim [14] 22, further comprising:

controlling a bit rate for the encoded non-realtime [content] guide graphics portion based in part on a bit rate for [the] a transport stream.

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17. (Currently Amended) The method of claim 16, wherein the bit rate for the encoded non-realtime [content] guide graphics portion is further based on a maximum bit rate anticipated for the encoded realtime [content] video portion.

18. (Currently Amended) The method of claim 16, further comprising:

allocating the bit rate for the encoded non-realtime [content] guide graphics portion among a plurality of guide graphics pages of the non-realtime [content] guide graphics portion.

19. Canceled.

20. Canceled.

21. (Currently presented) The apparatus of claim 1, wherein said non-realtime [content] guide graphics portion comprises guide page information and said realtime [content] video portion comprises video and audio information.

22. (Currently Amended) A method for an interactive program guide (IPG) having a realtime video portion and a non-realtime guide graphics portion, comprising:

encoding the realtime video portion by dividing the video portion into slices and encoding each video portion slice;

g1  
cont.

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encoding the non-realtime guide graphics portion to produce a plurality of encoded non-realtime graphics slices by dividing the non-realtime guide graphics portion into slices and encoding each non-realtime guide graphics portion slice;

assigning packet identifiers to the realtime video portion slices and the non-realtime guide graphics portion slices, wherein said assigning step assigns a different packet identifier to each guide graphics slice that is part of a different guide graphic, and assigns a common packet identifier to all [the] common realtime video portion slices;

combining encoded realtime video portion slices with encoded non-realtime guide graphics portion slices, wherein the encoded realtime video portion slices and non-realtime guide graphics portion slices are combined in a predetermined order;

repacketizing the combined encoded realtime video portion slices and the encoded non-realtime guide graphics portion slices into transport packets;

re-timestamping the transport packets with new timestamps in order to synchronize the realtime video portion and non-realtime guide graphics portion of the IPG; and

placing the encoded realtime video portion slices and non-realtime guide graphics portion slices into a bitstream for transmission.

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***Allowable Subject Matter***

3. Claims 1-11, 13-18, 21-22 are allowed.

### ***Drawings***

4. The application having been allowed, new corrected drawings are required in this application because the margins, lines in the drawings are improper. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

5. The following is an examiner's statement of reasons for allowance:

Regarding claim 1, the prior art of record fails to show or fairly suggest an apparatus for encoding realtime and non-realtime interactive program guide content as set forth in the claim where the means for assigning packet identifiers to the realtime video portion slices and the non-realtime guide graphics portion slices, wherein said assigning step assigns a different packet identifier to each guide graphics slice that is part of a different guide graphic, and assigns a common packet identifier to all common realtime video portion slices. The closest prior art, US Patent 5,619,337 to Naimpally shows (figure 3) substantially the same arrangement but lacks the specific elements of lines 8-12, 16-22 of claim 1.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shen et al. (US 5,956,088) teaches method and apparatus for modifying encoded digital video for improved channel utilization.

Yurt et al. (US 5,550,863) teaches audio and video transmission and receiving system.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh  
July 2, 2004



VIVEK SRIVASTAVA  
PRIMARY EXAMINER